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6 Attorneys for Movants  
NATIONSTAR MORTGAGE LLC and THE  
7 BANK OF NEW YORK MELLON, as  
Trustee for Structured Asset Securities  
8 Corporation Mortgage Pass-Through  
Certificate Series 2005-16  
9

10 UNITED STATES BANKRUPTCY COURT  
11 CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

12  
13 In re  
14 NANCY MARIE HORNER,  
15 Debtor.

CASE NO. 8:19-bk-11804-TA

Chapter 13

**REPLY TO DEBTOR'S RESPONSE  
TO MOTION REGARDING THE  
AUTOMATIC STAY (REAL  
PROPERTY)**

DATE: June 25, 2019

TIME: 10:30 a.m.

CRTRM.: 5A

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19  
20 In her Response to Movants NATIONSTAR MORTGAGE LLC's and THE BANK  
21 OF NEW YORK MELLON, as Trustee for Structured Asset Securities Corporation  
22 Mortgage Pass-Through Certificate Series 2005-16's ("Movants") Motion for Relief from  
23 the Automatic Stay (Real Property), Debtor NANCY MARIE HORNER ("Debtor") does  
24 not deny that she has engaged in a litany of litigation actions, appeals, prior bankruptcy  
25 proceedings and other tactics. Instead, she argues that there is no proof she proceeded with  
26 her tirade of litigation *in bad faith*. Movants argue they have presented ample proof to  
27 show Debtor's bad faith via her litigation scheme, enacted solely to delay eviction from the  
28 subject property following a foreclosure sale completed over three years ago.

1 The Central District has interpreted a “scheme” to mean “a plan adopted for the  
2 nefarious purposes specified in the statute: to delay, hinder and defraud creditors.” *In re*  
3 *Duncan & Forbes Development, Inc.*, 368 B.R. 27, 32 (Bankr. C.D. Cal. 2006).  
4 Importantly, “[i]t is not common to not have direct evidence of an artful plot or plan to  
5 deceive others. In general, the court must infer the existence and contents of a scheme  
6 from circumstantial evidence.” *Id.*

7 Here, the scheme that Debtor employs and implements is readily inferred from the  
8 facts described in Movants’ Motion, namely her and her husband’s numerous and  
9 unmeritorious litigation and prior bankruptcy actions. It is clear that Debtor would stop at  
10 nothing to avoid eviction from the subject property, which has already been appealed and  
11 judgment in favor of Movants upheld. Combined, this seemingly unending stream of court  
12 action and other delay tactics by Debtor and her husband is compelling evidence of the  
13 existence of a “scheme” within the meaning of 11 U.S.C. § 362(d)(4).

14 Debtor then asserts that Movants’ counsel made false statements by claiming the  
15 underlying civil and Unlawful Detainer actions were never consolidated. As evidenced by  
16 the Minute Order attached hereto as Exhibit A, the Superior Court did indeed relate these  
17 cases and consolidate them with the same judge, for all purposes.

18 Debtor then asserts that Movants acted in bad faith by filing the Real Property form  
19 instead of the Unlawful Detainer form with this Court. These forms are substantially  
20 similar, and there is no applicable information requested in the Unlawful Detainer form  
21 that is not discussed in Movants’ Real Property form. Moreover, given Debtor’s multiple  
22 appeals of the underlying Unlawful Detainer judgment and her ongoing civil action related  
23 to the subject property, the more inclusive Real Property form is applicable. Debtor’s  
24 contention that the wrong form was filed to avoid claiming ownership of the subject  
25 property is plainly wrong – Movants clearly discussed their title ownership interests in the  
26 Declaration incorporated into the Motion. Debtor’s further contention that filing the  
27 wrong form prevents her from defending in this action is completely unsupported.

28 Debtor claims Movants acted in bad faith by proceeding with a hearing in the

1 Unlawful Detainer action on May 30, 2019. The motions at issue during this hearing were  
2 filed before Debtor's bankruptcy petition, and included a Motion to Set Aside Judgment  
3 filed by Debtor herself. Debtor did not take her Motion to Set Aside off calendar, thus it  
4 proceeded on May 30, 2019, along with another motion. Moreover, the Orange County  
5 Superior Court issued a detailed analysis in which it concluded it was allowed it to proceed  
6 despite Debtor's bankruptcy filing. This analysis is attached to Debtor's Response to  
7 Motion Regarding the Automatic Stay (Action in NonBankruptcy Forum) as Exhibit F.  
8 Movant did not force the Superior Court to conduct such analysis or to proceed with the  
9 May 30 hearing, thus there have been no improper actions by Movants.

10 Finally, Debtor has again acted in bad faith by admitting she executed a substantial  
11 loan secured by the property (see Debtor's Declaration, ¶ 7), then claiming that she should  
12 not have to pay such loan as the documents were forged. Debtor also failed to include any  
13 loan obligation in her recently filed schedules. It is clear Debtor's goal is to obtain a free  
14 million-dollar house through her litigation actions and this bankruptcy.

15 Debtor's actions cannot be described as anything other than a complete abuse of the  
16 litigation and bankruptcy process, and it is clear Debtor gained the protections of the  
17 automatic stay through bad faith only. Given the foregoing, Movants request that this  
18 Court grant their Motion for Relief from the Automatic Stay (Real Property) under 11  
19 U.S.C. § 362, including the issuance of in rem relief.

20 DATED: June 17, 2019

HALL GRIFFIN LLP

21  
22 By:

  
Valerie J. Schratz, Esq.

Rachel C. Witcher, Esq.

Attorneys for Movants

23 NATIONSTAR MORTGAGE LLC and THE  
24 BANK OF NEW YORK MELLON, as Trustee for  
25 Structured Asset Securities Corporation Mortgage  
26 Pass-Through Certificate Series 2005-16  
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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
1851 East First Street, 10th Floor, Santa Ana, California 92705

A true and correct copy of the foregoing document entitled (*specify*): Reply to Debtor's Response to Motion Regarding  
The Automatic Stay (Real Property)

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 6/18/19, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Amrane (SA) Cohen (TR) efile@ch13ac.com  
United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) 06/18/19, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Nancy Marie Horner  
320 11th St  
Huntington Beach, CA 92648

☐ Service information continued on attached page

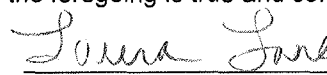
**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 6/18/19, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Theodor C. Albert - VIA OVERNIGHT  
United States Bankruptcy Court  
411 West Fourth Street, Suite 5085 / Courtroom 5B  
Santa Ana, CA 92701

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

6/18/19 Laura Lane  
*Date* *Printed Name*

  
*Signature*